

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

ANNE L. WOLFE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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CAUSE NO. 3:12-cv-374-CAN

**OPINION AND ORDER**

On July 1, 2013, the Court reversed the Commissioner's final decision in this matter regarding Plaintiff Anne L. Wolfe's application for Disability Insurance Benefits and ordered that this case be remanded for further proceedings in accordance with its opinion. [Doc. No. 23]. On July 22, 2013, Plaintiff filed an application for attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. In her motion, Plaintiff requested \$4,922.00 in attorneys' fees plus \$350 in costs for the filing fee. The undersigned now rules on Plaintiff's motion based on the parties' consent and 28 U.S.C. § 636(c).

An adverse party shall have fourteen days after service of a motion in which to serve and file a response. N.D. Ind. L.R. 7-1(d)(2)(A). Failure to file a response within the time prescribed may subject the motion to summary ruling. N.D. Ind. L.R. 7-1(d)(4). As of this date, Defendant has neither responded to Plaintiff's motion nor explained the lack of response. Consequently, this Court can only assume that Plaintiff's motion is unopposed. Moreover, Plaintiff timely filed the instant motion and demonstrated that the Commissioner's position was not substantially justified, that she was the prevailing party, and that the cost of living adjustment and numbers of hours expended by counsel staff are reasonable. *See* 28 U.S.C. § 2412(d)(1). In

addition, the Commissioner has not established that Plaintiff owes no pre-existing debt subject to offset and Plaintiff has assigned his right to the award to his attorney. *See Mathews-Sheets v. Astrue*, 653 F.3d 560, 565–66 (7<sup>th</sup> Cir. 2011) (citing *Astrue v. Ratliff*, 130 S.Ct. 2521, 2527–29 (2010)).

Therefore, the Court now **GRANTS** Plaintiff's motion. [Doc. No. 26]. The Court **ORDERS** the Commissioner to pay Plaintiff \$4,922.00, payable directly to Plaintiff's attorney, Laura E. Colella at Arruda & Beaudoin, L.L.P.

**SO ORDERED.**

Dated this 20th day of August, 2013.

S/Christopher A. Nuechterlein  
Christopher A. Nuechterlein  
United States Magistrate Judge